

The Administrative Law Judge (ALJ) found claimant sustained a 10 percent functional impairment and a 68 percent work disability. The work disability was determined by averaging a 100 percent wage loss with a 36 percent task loss.

Respondent requests review of the following issues: (1) average weekly wage; (2) nature and extent of claimant's disability; (3) reimbursement for transportation; and (4) payment of medical bills.¹

Claimant argues she is entitled to penalties pursuant to K.S.A. 44-512a or 44-512b and a higher task loss percentage but otherwise requests that the ALJ's Award be affirmed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record filed herein, the stipulations of the parties, and having considered the parties' briefs and oral arguments, the Board makes the following findings of fact and conclusions of law:

The ALJ's Award sets out findings of fact and conclusions of law that are detailed, accurate and supported by the record. It is not necessary to repeat those findings and conclusions herein. The Board adopts the ALJ's findings and conclusions as its own as if specifically set forth herein except as hereinafter noted.

The claimant requested mileage reimbursement for the mileage from her residence to the authorized treating physician's office. Claimant did not have a car and had requested transportation but ultimately her father had to rent a vehicle and drive claimant to the appointments as detailed in the ALJ's Award. The ALJ specifically noted in pertinent part:

While Respondent might argue that it is inappropriate to charge both mileage and car rental, it could have, and should have, provided transportation. It would have had to provide a vehicle, fuel, and a driver. In addition to the cost of renting the car, Claimant (through her father) had to bear the cost of fuel for the round trip. In addition, her father is entitled to some compensation for driving from Riverside, Missouri to Chanute, Kansas, from there to Leawood, Kansas, then back to Chanute, and then back to Riverside. That compensation would be the difference between the mileage charge and his actual fuel costs.²

The Board agrees and affirms in principle but notes that the mileage reimbursement was calculated by the ALJ using 55 cents a mile instead of the rate in effect at the time the trips were taken which was 50 cents a mile. Consequently, the mileage reimbursement is corrected to reflect a total of \$468.80.

¹ At oral argument before the Board, respondent noted there was an overpayment of temporary total disability compensation but it was agreed that was corrected in the Award's compensation paragraph where the correct amount was noted and respondent was given credit for amounts previously paid.

² ALJ's Award at 13.

As previously noted, the ALJ's Award contains a detailed recitation of the facts and analysis of the applicable law and is affirmed in all other respects.

As required by the Workers Compensation Act, all five members of the Board have considered the evidence and issues presented in this appeal.³ Accordingly, the findings and conclusions set forth above reflect the majority's decision and the signatures below attest that this decision is that of the majority.

AWARD

WHEREFORE, it is the decision of the Board that the Award of Administrative Law Judge Bruce E. Moore dated March 30, 2012, is modified to calculate the mileage reimbursement at the rate of 50 cents a mile and is otherwise affirmed in all respects.

IT IS SO ORDERED.

Dated this 16th day of August, 2012.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

e: Dennis L. Horner, Attorney for Claimant, hornerduckers@yahoo.com
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Bruce E. Moore, Administrative Law Judge

³ K.S.A. 2010 Supp. 44-555c(k).